

REMARKS/ARGUMENTS

Claims 4-22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 6-24 of copending Application No. 10/709,339.

5 Although the applicant does not agree with the Examiner's double patenting rejection, to speed prosecution of this application to become a patent, the applicant has included a terminal disclaimer for co-pending application 10/709,339 in compliance with 37 CFR 1.321(c) to overcome the above rejection based on non-statutory obviousness type double patenting.

10 Applicant further notes that filing the terminal disclaimer in no way indicates that the applicant agrees with the double patenting rejection made by the Examiner. In particular, MPEP 804.02 states:

15 The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. Quad Envi-ronmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

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Claims 4-22 are rejected under 35 USC 101 as not falling within on of the four statutory categories of invention. A statutory "process" must be (1) tied to another statutory category, or (2) transform underlying subject matter to a different state or thing. For example, the method of claim 1 is not tied to a device.

25 Independent claims 4 and 7 are amended to claim "A method for filtering a video stream to reduce a blocking artifact in a post-processing de-blocking device of a video decoder." No new matter is entered. In particular, paragraph [0040] of the application as originally filed states, "FIG. 3 is a block diagram showing a video decoder incorporating a post-processing de-blocking device according to the present invention."

30 Additionally, claims 4 and 7 are amended to tie the method steps to specific devices

utilized for performing the steps including a threshold determination unit and a de-blocking filtering unit. No new matter is entered. In particular, Figure 3 illustrates the threshold determination unit 326 and the de-blocking filtering unit 328, and paragraph [0070] states, “The threshold determination unit 326 determines the proper threshold values for a mode decision and a filtering decision using the information received from the picture-information extraction and buffering unit 304...The de-blocking filtering unit 328 performs adaptive filtering to remove blocking artifacts around each 8x8 block boundary.”

As currently amended, claims 4-22 are now tied to another statutory category; in particular, claims 4-22 are tied to “a post-processing de-blocking device of a video decoder” and the method steps are at least performed by a threshold determination unit and a de-blocking filtering unit. The applicant notes that the de-blocking filtering unit performs the method including the filtering step, and therefore, claims 4-22 should be found statutory as process claims under 35 USC 101.

Withdrawal of the 35 USC 101 rejection in view of the above-described amendments to the claims is respectfully requested.

Conclusion

Thus, all pending claims are submitted to be in condition for allowance with respect to the cited art for at least the reasons presented above. The Examiner is encouraged to telephone the undersigned if there are informalities that can be resolved in a phone conversation, or if the Examiner has any ideas or suggestions for further advancing the prosecution of this case.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Appl. No. 10/709,337
Amdt. dated February 12, 2009
Reply to Office action of December 18, 2008

Sincerely yours,

/Winston Hsu/

Date: 02/12/2009

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10 Note: Please leave a message in my voice mail if you need to talk to me. (The time in D.C. is 13 hours behind the Taiwan time, i.e. 9 AM in D.C. = 10 PM in Taiwan.)